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| 10/673,846 | 09/29/2003 | Mark Bernard Hettish | 2003P08062US | 3718 |

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Siemens Corporation
Attn: Elsa Keller, Legal Administrator
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| EXAMINER |
|---|
| PADMANABHAN, KAVITA |

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

PTOL-90A  (Rev. 04/07)

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *30 September 2008*.

2a)☐ This action is **FINAL**.      2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-7 and 15-17* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7 and 15-17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *29 September 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All    b)☐ Some * c)☐ None of:

       1.☐ Certified copies of the priority documents have been received.

       2.☐ Certified copies of the priority documents have been received in Application No. _____.

       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

## DETAILED ACTION

### *Status of Claims*

1.      Claims 1, 15, and 16 have been amended.

2.      Claims 1-7 and 15-17 are pending.

3.      Claims 1-7 and 15-17 are rejected.

### *Continued Examination Under 37 CFR 1.114*

4.      A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection.  Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114.  Applicant's submission filed on 9/30/08 has been entered.

### *Claim Rejections - 35 USC § 102*

5.      The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on
> sale in this country, more than one year prior to the date of application for patent in the United States.

6.      **Claims 1-7 and 15-17** are rejected under 35 U.S.C. 102(b) as being anticipated by

**Diacakis et al.** (US 2002/0116336, hereinafter "Diacakis").


        In regards to **claim 1**, **Diacakis** teaches a method, comprising:

– interfacing an identity oriented context application that represents a context of an identity based on an availability or state of the identity with a device oriented context application that represents the context of the identity based on an availability or state of a device associated with the identity, where the identity is a person or a group of persons **(Diacakis; Fig. 1; Fig. 4 – presence detection engine interpreted as device oriented context system since it determines user's presence on particular devices, and availability management engine interpreted as identity oriented context system since it determines user's availability based on user's situation; par [0026]; par [0044]-[0045])**;

– determining, by said device oriented context system, a device oriented context for a specific device associated with the identity **(Diacakis; par [0043]-par [0044] – *"to determine if the individual is present on a landline telephone, for example, the landline desk phone 44 in his office," "to determine if the individual is present on his mobile phone 46", "to determine whether an individual is present on other devices such as, for example, a personal digital assistant (PDA) 50 or a pager 52";* Fig. 8)**, wherein said device oriented context provides an availability status of said specific device **(Diacakis; par [0026]; par [0043]-par [0044] – a landline telephone is clearly a specific device for which an availability status is determined, as is a PDA; par [0045]; par [0053])**;

– determining, by said identity oriented context system, an identity oriented context for said identity, wherein said identity oriented context provides an availability status of said identity **(Diacakis; par [0056]; par [0059]; Fig. 8)**;

- determining an availability rule associated with said identity, the availability rule governing when or how the identity is available, when or how the identity can be contacted by other identities, how or when the identity can be contacted based on the identity oriented context of the identity, and how or when the identity can be contacted based on the device oriented context of the identity **(Diacakis; par [0031]; par [0034]; par [0038]** – ***"determine the individual's availability based on the presence information as well as additional information, such as the individual's situation and defined rules and preferences"; par [0040]** – **"For example, if the individual had scheduled to be in his office from 9am to 5pm, the presence detection engine 18 may determine that during that time period the individual is present on the networks available to him in his office, which may be, for example, telephone and instant messaging."***);

- determining, for a specific time, a true availability of said identity based, at least in part, on said determined device oriented context for said specific device, said determined identity oriented context, said determined availability rule, and said specific time **(Diacakis; par [0034]** – **par [0035]; par [0038]; par [0040]** – ***"As illustrated in FIG. 4, the presence detection engine 18 may receive various inputs to determine, to the extent possible, the individual's presence. One type of input that the presence detection engine 18 may use to help determine the individual's presence is time-based input 40."***; **par [0043]** – **par [0044]; par [0056]; [0059]; Fig. 8)**; and

- providing data indicative of said true availability of said identity **(Diacakis; par [0035]; Fig. 8)**.

In regards to **claim 2**, **Diacakis** teaches the method of claim 1, further comprising receiving a request for information regarding true availability of said identity **(Diacakis; par [0029] – par [0030])**.

In regards to **claim 3**, **Diacakis** teaches the method of claim 1, wherein said determining said true availability of said identity includes determining availability of said identity via at least two different media channels **(Diacakis; par [0031], lines 21-25; par [0035]; par [0038]; par [0040]; par [0043] – par [0044])**.

In regards to **claim 4**, **Diacakis** teaches the method of claim 1, further comprising establishing said availability rule **(Diacakis; par [0031])**.

In regards to **claim 5**, **Diacakis** teaches the method of claim 1, wherein said providing data indicative of said true availability of said identity includes displaying an interface indicative of said availability **(Diacakis; par [0056]; Fig. 8)**.

In regards to **claim 6**, **Diacakis** teaches the method of claim 5, wherein said interface identifies said identity **(Diacakis; par [0056]; Fig. 8)**.

In regards to **claim 7**, **Diacakis** teaches the method of claim 1, further comprising determining said identity **(Diacakis; par [0038]; par [0056]; Fig. 8)**.

**Claims 15 and 16** are each rejected with the same rationale given for claim 1.


In regards to **claim 17**, **Diacakis** teaches the method of claim 1, wherein said identity is

associated with a plurality of devices **(Diacakis; par [0026]; par [0044] – par [0045]; Fig. 8)**.


*Response to Arguments*

7.      Applicant's arguments filed 9/30/08 with respect to the prior art rejections of the claims

have been fully considered but they are not persuasive.

Applicant argues at pages 8-10 of applicant's remarks that Diacakis does not teach the

claimed device oriented context application.  The examiner respectfully disagrees and asserts

that the presence detection engine of Diacakis is interpreted as a device oriented context

application since it determines a user's presence on particular devices (Diacakis; Fig. 1; Fig. 4).

Specifically, applicant argues that no availability of a device is determined by Diacakis.

Rather, applicant argues that Diacakis determines the availability of the "individual" on the

network or device, not the availability of the network or device itself.  The examiner respectfully

disagrees and asserts that Diacakis clearly determines the availability of devices on a network by

determining presence information for the device (Diacakis; par [0044]-[0045]), including

determining whether a device is switched on/off (Diacakis; par [0026]).

Applicant further argues that Diacakis discloses an identity oriented application since

Diacakis is fundamentally concerned with determining the availability of an individual.  The

examiner again respectfully disagrees and asserts that Diacakis determines the availability of

devices on a network by determining presence information for the device (Diacakis; par [0044]-

[0045]), including determining whether a device is switched on/off (Diacakis; par [0026]).

Furthermore, the examiner notes that it could be argued that the *claimed* device oriented context

application is fundamentally concerned with the availability of an individual, since it *"represents*

*the context of the identity* based on an availability or state of a device associated with the

identity." Therefore, the distinction the applicant is attempting to draw between the claimed

invention and the cited reference appears unfounded.

Applicant also argues that there is no need for the Examiner to interpret the meaning of

the terms "presence" and "availability" since Diacakis defines these terms. The examiner asserts

that she is not interpreting the defined terms of Diacakis in a manner that is contrary to the

definitions given by Diacakis. Rather, the examiner is merely providing a mapping between the

terms disclosed by Diacakis and the claimed terminology. Applicant argues that there is no

disclosure in Diacakis of the "presence detection engine 18" being the same or even suggestive

of the claimed "device oriented context application." The examiner respectfully disagrees. The

claimed device oriented context application "represents the context of the identity based on an

availability or state of a device associated with the identity," which is precisely what the

presence detection engine of Diacakis does when it determines the availability or state of a

device associated with an individual (Diacakis; par [0026]; par [0045]).

Applicant argues at page 11 of applicant's remarks that Diacakis fails to teach

"determining, for a specific time, a true availability of said identity based, at least in part, on said

determined device oriented context for said specific device, said determined identity oriented

context, said determined availability rule, and said specific time." The examiner respectfully

disagrees and asserts that Diacakis does indeed teach the claimed limitation (Diacakis; par

[0040] – *"For example, if the individual had scheduled to be in his office from 9am to 5pm, the presence detection engine 18 may determine that during that time period the individual is present on the networks available to him in his office, which may be, for example, telephone and instant messaging."*)  In this example provided by Diacakis, a true availability of said identity is determined based, at least in part, on said determined device oriented context for said specific device (*present, telephone* – which can include the on/off status of a device as described at least in par [0026]), said determined identity oriented context (*in his office*), said determined availability rule, and said specific time (*9am to 5pm*).  Furthermore, par [0034] states, in part, *"the individual may configure his profile such that his boss has access to the individual's P&A while the individual is at work,"* and *"the P&A management server 12 consults the individual's defined rules,"* which clearly teaches using the determined availability rule in determining a true availability of the identity.


## *Conclusion*

8.     Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Kavita Padmanabhan** whose telephone number is **(571)272-8352**.  The examiner can normally be reached on Monday-Friday, 9:00am-5:30pm.

       If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu Mofiz can be reached on 571-272-4080.  The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

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applications is available through Private PAIR only. For more information about the PAIR

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like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Kavita Padmanabhan                                          October 14, 2008
Patent Examiner
AU 2161

/Kavita  Padmanabhan/